

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FELIX SANCHEZ,

Petitioner,

-against-

KEYSER,

Respondent.

**USDC-SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC#:
DATE FILED: 5-12-20**

20-CV-3070 (RA)

ORDER

RONNIE ABRAMS, United States District Judge:

In 1992, Petitioner Felix Sanchez was convicted in New York Supreme Court of murder, attempted murder, and gun possession, and was sentenced to an aggregate term of 50 years to life in prison. In 1995, his convictions were affirmed on appeal. *See People v. Sanchez*, 216 A.D.2d 207 (1st Dep't 1995), *leave denied*, 87 N.Y. 2d 850 (Nov. 20, 1995). On December 3, 1998, Sanchez filed an initial petition seeking habeas corpus relief, which Judge Rakoff denied as untimely on January 12, 2000. *Sanchez v. Superintendent Portuondo et al.*, 99-CV-01911-JSR, ECF No. 8. On January 4, 2020, Judge Rakoff denied Sanchez's motion for relief from this habeas judgment. *Id.* at ECF No. 19.

Sanchez filed a further habeas petition dated April 4, 2020 seeking release pursuant to 28 U.S.C. § 2254(a) based on the extraordinary circumstances and risk to his health posed by COVID-19. That petition was docketed in a new action before this Court on April 16, 2020, 20-CV-3070-RA, ECF No. 1, as well as in the existing action before Judge Rakoff on April 23, 2020, 99-CV-01911-JSR, ECF No. 24. Judge Rakoff transferred Sanchez's petition to the Second Circuit pursuant to 28 U.S.C. § 1631 on the grounds that any second or successive habeas petition must be certified by a panel of the Second Circuit under 28 U.S.C. §§ 2244(b)(3)(A) and 2255(h). *See* 99-cv-01911-JSR, ECF No. 25 (citing *Torres v. Senkowski*, 316


F.3d 147, 151-52 (2d Cir. 2003)). In light of the fact that Mr. Sanchez's April 4, 2020 petition was docketed in both this action and the action before Judge Rakoff, and Judge Rakoff had already addressed the petition, this Court declined to do so and closed the action on April 28, 2020. ECF 9.

On May 11, 2020, an amended habeas petition was docketed in this action. ECF 10. The amended petition is dated April 25, 2020, and thus appears to have been written but not docketed before the Court issued its April 28, 2020 Order. In light of the fact that this action was closed on April 28, 2020, and Mr. Sanchez's April 4, 2020 petition is currently pending before the Second Circuit pursuant to Judge Rakoff's April 27, 2020 Order, his amended habeas petition is denied as moot.

The Clerk of Court is respectfully directed to mail this Order, as well as the Court's April 28, 2020 Order to Felix Sanchez.

SO ORDERED.

Dated: May 12, 2020
New York, New York



RONNIE ABRAMS
United States District Judge